

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
:
LUIGI GIROTTO, ::
Plaintiff, ::
-against- ::
MARNI U.S.A., CORP., et al., ::
Defendants. :

22-CV-3723 (VSB)

ORDER-----X
VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action against Defendants Marni U.S.A., Corp. and Mando Holdings LLC on May 7, 2022, (Doc. 1), and filed affidavits of service on June 19, 2022, (Docs. 7, 8). The deadline for Defendants to respond to Plaintiff's complaint was June 29, 2022. (*See* Docs. 7, 8.) On June 30, 2022, I ordered that if Plaintiff intended to seek default judgment, Plaintiff should do so by no later than July 7, 2022. (Doc. 9.) I warned, "If Plaintiff fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b)." (*Id.*)

On July 7, 2022, instead of seeking default judgment, Plaintiff informed the Court that "he will not be seeking a default judgment against the Defendants at this time" because Plaintiff chose to serve Defendants through the Department of State, and Plaintiff understood that service of process through the Department of State was backlogged by six to eight weeks. (Doc. 10.) On July 8, 2022, I granted Plaintiff's request for a 30-day extension and ordered that if Plaintiff intended to seek default judgment, Plaintiff should do so by no later than August 8, 2022. (Doc. 11.) I again warned, "If Plaintiff fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I will dismiss this case for failure to prosecute pursuant to Federal Rule

of Civil Procedure 41(b).” (*Id.*) I also advised “that additional extensions will not be granted barring extenuating circumstances.” (*Id.*)

On July 29, 2022, Defendant Marni U.S.A., Corp. appeared in this case and requested an extension of time to respond to the complaint, which I granted. (Docs. 12, 13, 14, 15.)

However, to date, Defendant Mando Holdings LLC has not appeared or responded to the complaint. On August 8, 2022, instead of seeking default judgment against Defendant Mando Holdings LLC, Plaintiff requested another 30-day extension of time. (Doc. 16.) Plaintiff stated that “the undersigned is in communication with counsel as to Landlord Defendant Mando Holdings LLC” and “has attempted to personally serve Landlord Defendant Mando Holdings LLC to expedite service, but the process server is having trouble locating the Defendant at their last known address.” (*Id.*) Plaintiff provided no extenuating circumstances for an additional 30-day extension. (*See* Doc. 11.)

Accordingly, Plaintiff’s claims against Defendant Mando Holdings LLC are dismissed without prejudice pursuant to Rule 41(b). The Clerk of Court is respectfully directed to terminate Defendant Mando Holdings LLC from this action and to close the motion pending at Doc. 16.

SO ORDERED.

Dated: August 9, 2022
New York, New York


VERNON S. BRODERICK
United States District Judge